

INSTRUCTION NO.[1-401]

**[ENHANCEMENT INSTRUCTION PURSUANT TO 46-1-401, MCA]**

The State has alleged that in committing the offense[s] of \_\_\_\_\_, the Defendant acted [with] [by] [here insert appropriate enhancement language]. Whether the Defendant [insert enhancement language] in the commission of the offense[s] for which the Defendant is being tried, must be proved by the State by proof beyond a reasonable doubt. This is a separate finding by you, independent of the issue of whether the Defendant is guilty of the offense[s] of \_\_\_\_\_. Nevertheless, you cannot find the Defendant acted [with] [by] [insert appropriate enhancement language] unless you first determine beyond a reasonable doubt that the Defendant committed the offense[s] of \_\_\_\_\_.

Your finding with respect to [appropriate enhancement language] must be separately stated on the verdict form.

GIVEN: \_\_\_\_\_  
DISTRICT JUDGE

Source: MCJI 1-401

Plaintiff's Proposed Instruction No. \_\_\_\_\_ Defendant's Proposed Instruction No. \_\_\_\_\_

Given as Instruction No. \_\_\_\_\_ Refused \_\_\_\_\_ Withdrawn \_\_\_\_\_ By \_\_\_\_\_

**[Enhancement Instruction, Source and Comments]**

SOURCE: 46-1-401, MCA (2001)